IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 4TH SEPTEMBER 2007 / 13TH BHADRA 1929

WP(C).No. 15614 of 2007(H)

PETITIONERS:

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1. B.BEENA, RESIDING AT `NISHARI',
AVANAVANCHERI, ATTINGAL P.O., THIRUVANANTHAPURAM.

2. E.ABDUL SALAM, RESIDING AT `MINAR',
ANUPAMA NAGAR, PONGUMMOODU, MEDICAL COLLEGE P.O.,
THIRUVANANTHAPURAM.

BY ADV. SRI.L.MOHANAN
SMT.LIGEY ANTONY
SRI.M.V.KIRAN MOHAN

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
SECRETARY, LOCAL ADMINISTRATION,
THIRUVANANTHAPURAM.

2. TRIVANDRUM TOWN PLANNING TRUST,
REPRESENTED BY CHIEF TOWN PLANNER,
TOWN PLANNING OFFICE, THIRUVANANTHAPURAM.

3. CORPORATION OF THIRUVANANTHAPURAM
REPRESENTED BY ITS SECRETARY.

4. TRIVANDRUM DEVELOPMENT AUTHORITY,
THIRUVANANTHAPURAM.

R1 & R2 BY SR.GOVT.PLEADER SRI.K.A.MOHAMMED ANSAR
R3 BY ADV.SRI.N.NANDAKUMARA MENON, SC.
R4 BY ADV. SRI.K.A.JALEEL, SC., TRIDA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.15614/07

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE COPY OF TAX RECEIPT DT.2.5.07

EXT.P2 – COPY OF DO. DT.4.5.07.

EXT.P3 – COPY OF PLAN.

EXT.P4 – COPY OF LETTER DT.5.5.07

EXT.P5 – COPY OF NOTIFICATION DT.27.10.76.

EXT.P6 – COPY OF JUDGMENT IN OP.34791/01 DT.12.7.07.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.15614 OF 2007

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DATED THIS THE 4TH SEPTEMBER, 2007

J U D G M E N T

Heard Smt.Ligey Antony, counsel for the petitioners and Sri.N.Nandakumara Menon, Standing Counsel for the Corporation.

2. The petitioners are aggrieved by the rejection of an application for building permit submitted by them vide Ext.P4 on the ground that the property is covered by Ext.P5 Scheme. The petitioners submit on the basis of Ext.P6 judgment of this Court that this Court held relying on the Full Bench judgment in **Francis v. Chalakudy Municipality** (1999 (3) KLT 560) that Ext.P6 scheme therein (which is the same as Ext.P5 in this case) has become oppressive and will not be binding on the parties.

3. I do not propose to decide this case finally. However, considering Ext.P6, I quash Ext.P4 and direct the Corporation to take a fresh decision taking into account Ext.P6 judgment of this Court. Fresh decision as directed above will be taken by the Corporation at its earliest and at any rate within six weeks of receiving copy of this judgment. If the petitioners are desirous of a personal hearing, they may request for the same in which case the request will be granted.

The Writ Petition is disposed of as above.

(PIUS C.KURIAKOSE, JUDGE)

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